

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JADE D'AMARIO and JOSHUA DUNN individually
and on behalf of all others similarly situated,

Case No. 7:20-cv-03744-CS

Plaintiff,

v.

THE UNIVERSITY OF TAMPA,

Defendant.

**DECLARATION OF RYAN BAHRY REGARDING SETTLEMENT
ADMINISTRATION**

I, RYAN BAHRY, declare and state as follows:

1. I am an Assistant Director at JND Legal Administration (“JND”). JND is a legal administration service provider with its headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases.
2. JND is serving as the Settlement Administrator¹ in the above-captioned litigation (“Action”), for the purposes of administering the Class Action Settlement Agreement (“Settlement Agreement”), preliminarily approved by the Court in its Order Granting Preliminary Approval of Class Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan, dated June 3, 2022 (“Order”).

¹ Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Class Action Settlement Agreement (“Settlement Agreement”).

3. This Declaration is based on my personal knowledge and information provided to me by experienced JND employees and, if called on to do so, I could and would testify competently thereto.

CAFA NOTICE

4. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, JND compiled a CD-ROM with the following documents:

- a. Class Action Complaint and Demand for Jury Trial, filed May 14, 2020;
- b. Amended Class Action Complaint and Demand for Jury Trial, filed September 15, 2021;
- c. Second Amended Class Action Complaint and Demand for Jury Trial, filed November 3, 2021;
- d. Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement, filed May 25, 2022;
- e. Class Action Settlement Agreement, filed May 25, 2022;
- f. [Proposed] Email Notice, filed May 25, 2022;
- g. [Proposed] Postcard Notice, filed May 25, 2022;
- h. [Proposed] Long Form Notice, filed May 25, 2022; and
- i. [Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan, filed May 25, 2022; and
- j. Estimated Number of Class Members by State.

5. The CD-ROM was mailed on June 3, 2022, to the appropriate Federal and State officials identified in the attachment with an accompanying cover letter, a copy of which is attached hereto as **Exhibit A**.

CLASS MEMBER DATA

6. On June 21, 2022, JND received a spreadsheet from Defendant containing the names, mailing addresses, email addresses, and student IDs for 9,085 potential Settlement Class Members. On July 22, 2022, JND received a spreadsheet from Defendant containing the amount of tuition paid during the Class Period by each Settlement Class Member.

7. Prior to mailing notices, JND analyzed the raw data to remove duplicate records. JND did not identify any duplicate records, resulting in 9,085 unique Settlement Class Member records. JND updated the Settlement Class Member contact information using data from the National Change of Address (“NCOA”) database.² The Settlement Class Member data was promptly loaded into a secure database established for this Action.

E-MAIL NOTICE

8. Pursuant to the terms of the Settlement Agreement, on June 24, 2022, JND sent the customized, Court-approved e-mail notice (“E-mail Notice”) via e-mail from an established case inbox (info@UTSettlement.com) to 8,737 unique Settlement Class Members with a valid e-mail address (348 Settlement Class Members were excluded from the e-mail campaign as they did not have a valid e-mail address). A representative sample of the E-mail Notice is attached hereto as **Exhibit B**.

² The NCOA database is the official United States Postal Service (“USPS”) technology product which makes changes of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mail stream. This product is an effective tool to update address changes when a person has completed a change of address from with the USPS. The address information is maintained on the database for 48 months.

9. As of the date of this Declaration, JND tracked 104 E-mail Notices that were returned to JND as undeliverable.

POSTCARD NOTICE

10. Pursuant to the terms of the Settlement Agreement, on July 1, 2022, JND mailed the Court-approved postcard notice (“Postcard Notice”) via USPS first-class mail to the 452 Settlement Class Members who did not receive an E-mail Notice. A representative sample of the Postcard Notice is attached hereto as **Exhibit C**.

11. As of the date of this Declaration, JND tracked 30 Postcard Notices that were returned to JND as undeliverable. Of these 30 undeliverable Postcard Notices, JND conducted additional advanced address research through TransUnion and received updated address information for two (2) Class Members. JND promptly re-mailed Postcard Notices to these two (2) Class Members on August 23, 2022.

12. As of the date of this Declaration, 9,055 Class Members were e-mailed or mailed a notice that was not returned as undeliverable, representing 99.7% of total Settlement Class Members.

SETTLEMENT WEBSITE

13. On June 13, 2022, JND established a Settlement Website (www.UTSettlement.com), which hosts copies of important case documents, including the Settlement Agreement, Class Notice, answers to frequently asked questions, and contact information for the Administrator. Additionally, the Settlement Website allowed Class Members to submit an Election Form or Exclusion Request electronically.

14. On July 25, 2022, Class Counsel filed Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Incentive Awards, and all papers pertaining to that Motion were uploaded to the Settlement Website on the same day.

15. As of the date of this Declaration, the Settlement Website has tracked 6,157 unique users with 12,342 page views. JND will continue to update and maintain the Settlement Website throughout the administration process.

TOLL-FREE INFORMATION LINE

16. On June 13, 2022, JND established a case-specific toll-free number, 1-888-681-2292, for Settlement Class Members to call to obtain information regarding the Settlement. Callers have the option to listen to the Interactive Voice Response ("IVR") system, or to speak with a live agent. The toll-free number is accessible 24 hours a day, seven days a week.

17. As of the date of this Declaration, the toll-free number has received 95 incoming calls. JND will continue to maintain the toll-free number throughout the settlement administration process.

REQUESTS FOR EXCLUSION

18. The E-mail and Postcard Notice informed recipients that any Class Member who wished to exclude themselves from the proposed Settlement ("opt-out") must do so by submitting an exclusion request electronically on the Settlement website or by mailing an exclusion letter to the Settlement Administrator, postmarked or submitted on or before August 30, 2022.

19. As of the date of this Declaration, JND has received two (2) timely exclusion

requests from Class List Members Samantha Glauser³ (Chalfont, PA) and Joseph Lindquist (Tampa, FL); and three (3) timely exclusion requests from Non-Class List Members Thomasina Reed (Rochester, NY), Jennifer Herron (Houston, TX), and Tasha Jefferson (Santee, SC).

OBJECTIONS

20. The E-mail and Postcard Notice informed recipients that any Class Member who wished to object to the proposed Settlement could do so by filing a written objection with the Court, postmarked on or before August 30, 2022.

21. As of the date of this Declaration, JND has not received, and is not aware of, any objections.

ELECTION FORMS RECEIVED

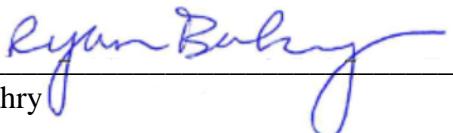
22. The E-mail and Postcard Notice informed recipients that while Class Members do not need to do anything to receive an award, those wishing to elect the method in which they receive the payment must file an Election Form and submit it to JND electronically on or before August 30, 2022.

³ Samantha Glauser submitted an Election Form on 6/25/22 and submitted a Request to be Excluded on 6/27/22 electronically through the Settlement Website. JND has attempted to call her using the phone number provided on her Election Form to determine her intent but has been unsuccessful.

23. As of the date of this Declaration, JND has received 1,596 Election Form submissions. JND is in the process of receiving, reviewing, and validating Election Form submissions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed September 21, 2022 in Seattle, Washington.



Ryan Bahry

EXHIBIT A



June 3, 2022

United States Attorney General
and the Appropriate Officials
Identified in Attachment A

RE: CAFA Notice of Proposed Class Action Settlement

Dear Sir or Madam:

This Notice is being provided to you in accordance with the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715 on behalf of The University of Tampa, the defendant in the below-referenced class action ("the Action"). Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement was filed with the Court on May 25, 2022. As of the date of this Notice, the Court has not scheduled an approval hearing.

Case Name: *D'Amario, et al. v. The University of Tampa*

Case Number: 7:20-cv-03744-CS

Jurisdiction: United States District Court, Southern District of New York

Date Settlement filed with Court: May 25, 2022

Copies of all materials filed in the above-named actions are electronically available on the Court's Pacer website found at <https://pcl.uscourts.gov>. Additionally, in compliance with 28 U.S.C. § 1715(b), the enclosed CD-ROM contains the following documents filed in the Action:

01 - Complaint.pdf

Class Action Complaint and Demand for Jury Trial, filed May 14, 2020

02 -Amended Complaint.pdf

Amended Class Action Complaint and Demand for Jury Trial, filed September 15, 2020

03 - Second Amended Complaint.pdf

Second Amended Class Action Complaint and Demand for Jury Trial, filed November 3, 2021

04 - Motion for Preliminary Approval.pdf

Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, filed May 25, 2022

05 - Settlement Agreement.pdf

Class Action Settlement Agreement, filed on May 25, 2022

06 - Email Notice.pdf

[Proposed] Email Notice, filed on May 25, 2022

07 - Postcard Notice.pdf

[Proposed] Postcard Notice, filed on May 25, 2022

08 - Long Form Notice.pdf

[Proposed] Long Form Notice, filed on May 25, 2022

09 - Preliminary Approval Order.pdf

[Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan, filed on May 25, 2022

10 - Estimated Number of Class Members by State.pdf

Pursuant to 28 U.S.C. § 1715(b)(7)(B), Defendant estimates there are approximately 9,085 potential members of the Settlement Class, and that they are last known to be residing in the U.S. States or Territories listed in **Exhibit 10**. As set forth fully in the Parties' Class Action Settlement Agreement, the proportionate share of the net settlement fund to be distributed to the class members is determined based upon the out-of-pocket tuition and fees paid by or on behalf of each class member divided by the total out-of-pocket tuition and fees aggregated for all of the class members.

There are no other settlements or agreements made between Counsel for the parties related to the class defined in the proposed settlement, and as of the date of this Notice, no Final Judgment or notice of dismissal has been entered in this case.

If you have any questions regarding the details of the case and settlement, please contact Defense Counsel's representatives at:

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44 South Broadway, 14th Floor
White Plains, NY 10601
(914) 872-8060
jonathan.kozak@jacksonlewis.com

Ryan C. Chapoteau
Jackson Lewis P.C.
666 Third Avenue, 29th Floor
New York, NY 10017
(212) 545-4000
Ryan.chapoteau@jacksonlewis.com

For questions regarding this Notice, please contact JND at:

JND Class Action Administration
1100 2nd Ave, Suite 300
Seattle, WA 98101
Phone: 800-207-7160

Regards,

JND Legal Administration
Encl.

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Ernestine K. Rengiil
Office of the Attorney General
P.O. Box 1365
Koror, PW 96940

EXHIBIT B

From: Jennifer@UTSettlement.com
To: **JonQClassMember@domain.com**
Re: Legal Notice of Class Action Settlement

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
D'Amario v. The University of Tampa, Case No. 7:20-cv-03744-CS
(United States District Court for the Southern District of New York)

This notice is to inform you of the settlement of a class action lawsuit with The University of Tampa (“UT”) the Defendant in this case. Plaintiffs Jade D’Amario and Joshua Dunn allege that Defendant breached its contract with its students to provide physically in-person, on-campus educational services for the Spring 2020 Semester by transitioning to remote learning and services in March 2020 without issuing tuition and fee refunds. UT denies all allegations of wrongdoing and liability. There has been no finding of liability by any Court. However, in order to support its students and to resolve the matter, but without admitting any wrongdoing, UT has agreed to establish a Settlement Fund to resolve all claims in the Action (the “Settlement”).

Am I a Class Member? UT’s records indicate you may be a Class Member. Class Members are persons who are/were students who paid, or on whose behalf was paid, tuition and fees to Defendant for the Spring 2020 Semester and who remained enrolled as of March 1, 2020.

What Can I Get? A Settlement Fund of \$3,400,000.00 has been established to pay all claims to the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs, and incentive awards. If you are entitled to relief, you will receive a *pro rata* share of the Settlement Fund, which *pro rata* share will be based on the total out-of-pocket amount of tuition and fees (excluding room and board) paid for the Spring 2020 Semester.

How Do I Get a Payment? If you are a Class Member, you will automatically receive a *pro rata* share of the Settlement Fund, so long as you do not request to be excluded from the Settlement Class. Your payment will come by check to the residential address on file with UT. By visiting the Settlement Website at www.UTSettlement.com, you may instead opt to: (i) receive your payment by check at a different mailing address or by Venmo or PayPal; (ii) apply your payment to future credits at UT to be used no later than the start of the Fall 2023 semester (on August 28, 2023); or (iii) direct your payment as a gift to UT for deposit into a scholarship fund administered by UT for the benefit of its students. You may also visit the Settlement Website to update your mailing address. You do not need to provide any information to participate. UT has provided to Class Counsel a list of the Class Members and their contact information. Also, the Court has issued an order permitting UT, under the Family Educational Rights and Privacy Act (“FERPA”), to disclose to the settlement administrator and Class Counsel, the Spring 2020 Semester out-of-pocket amount for each Class Member. UT will release that information no later than five (5) business days after August 30, 2022. On or before August 30, 2022, you as a Class Member have the option to request that the Court quash its order requiring such disclosure as to your information.

What are My Other Options? You may exclude yourself from the Class by sending a letter to the settlement administrator no later than **August 30, 2022**. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the Defendant over the

legal issues in the lawsuit. If you do not exclude yourself, you may object to the Settlement if you choose to do so. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than **August 30, 2022**. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.UTSettlement.com. If you do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims relating to the alleged breach of contract and unjust enrichment causes of action asserted in this case or which could have been brought in this case based upon the facts alleged regarding the Spring 2020 Semester will be released.

Who Represents Me? The Court has appointed Philip L. Fraietta and Alec M. Leslie of Bursor & Fisher, P.A to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at **3:30pm EST on October 18, 2022** at United States District Court for the Southern District of New York, 300 Quarropas Street, White Plains, NY 10601. This hearing may be adjourned to a different date or may ultimately be conducted remotely. Please check the Settlement Website for updates. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees, costs, and expenses; and decide whether to award the Class Representatives \$10,000 each from the Settlement Fund for their services in helping to bring and settle this case. Defendant has agreed that Class Counsel may be paid reasonable attorneys' fees from the Settlement Fund in an amount to be determined by the Court. Class Counsel will seek no more than one-third of the Settlement Fund, but the Court may award less than this amount.

How Do I Get More Information? For more information, including a more detailed Notice, Claim Form, a copy of the Settlement Agreement and other documents, go to www.UTSettlement.com, contact the settlement administrator at 1-888-681-2292 or UT Settlement Administrator, c/o JND Legal Administration, P.O. Box 91244, Seattle, WA 98111, or call Class Counsel at 1-646-837-7150.

EXHIBIT C

COURT AUTHORIZED NOTICE OF CLASS
ACTION AND PROPOSED SETTLEMENT

**UT'S RECORDS INDICATE
YOU WERE A STUDENT
WHO PAID, OR ON
WHOSE BEHALF WAS
PAID, TUITION AND FEES
TO UT FOR THE SPRING
2020 SEMESTER, YOU
REMAINED ENROLLED
ON MARCH 1, 2020, AND
MAY BE ENTITLED TO A
PAYMENT FROM A CLASS
ACTION SETTLEMENT.**

By Order of the Court Dated: June 3, 2022

UT Settlement
c/o JND Legal Administration
P.O. Box 91244
Seattle, WA 98111



Unique ID: XXXXXXXX

Postal Service: Please do not mark barcode

NAME
ADDRESS
CITY, STATE ZIP

UT SETTLEMENT

A settlement has been reached in a class action lawsuit claiming that Defendant, The University of Tampa, breached its contract with its students to provide physically in-person, on-campus educational services for the Spring 2020 Semester by transitioning to remote learning and services in March 2020 without issuing tuition and fee refunds. UT denies all allegations of wrongdoing and liability. There has been no finding of liability by any Court. However, in order to support its students and to resolve the matter, but without admitting any wrongdoing, UT has agreed to establish a Settlement Fund to resolve all claims in the Action (the "Settlement").

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Who Represents Me? The Court has appointed Philip L. Fraietta and Alec M. Leslie of Burson & Fisher, P.A to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

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